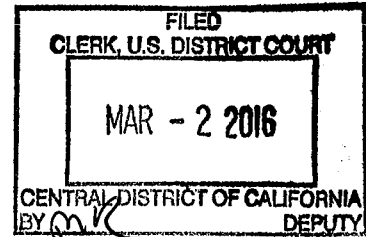


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SILPADA DESIGNS, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SILPADA DESIGNS, INC.,
Plaintiff,
vs.
CLAIRE SANTANIELLO,
Defendants.

Case No. 2:15-cv-03636-SJO-SSx

**SILPADA DESIGNS, INC.'S
~~PROPOSED~~ PROTECTIVE ORDER**

**[Discovery Document: Referred To
Magistrate Judge Suzanne H. Segal]**

Complaint Filed: May 19, 2015

NOTE CHANGES MADE BY THE COURT

NOTE CHANGES MADE BY THE COURT

1 1. A. PURPOSES AND LIMITATIONS

2 Discovery in this Action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may be
5 warranted. This Order does not confer blanket protections on all disclosures or
6 responses to discovery and the protection it affords from public disclosure and use
7 extends only to the limited information or items that are entitled to confidential
8 treatment under the applicable legal principles. As set forth in Section 12.3, below,
9 this Protective Order does not entitle the parties to file confidential information under
10 seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the
11 standards that will be applied when a party seeks permission from the court to file
12 material under seal.

13 B. GOOD CAUSE STATEMENT

14 This Action is likely to involve trade secrets, customer and pricing lists and
15 other valuable research, development, commercial, financial, technical and/or
16 proprietary information for which special protection from public disclosure and from
17 use for any purpose other than prosecution of this Action is warranted. Such
18 confidential and proprietary materials and information consist of, among other
19 things, confidential business or financial information, information regarding
20 confidential business practices, or other confidential research, development, or
21 commercial information (including information implicating privacy rights of third
22 parties), information otherwise generally unavailable to the public, or which may be
23 privileged or otherwise protected from disclosure under state or federal statutes, court
24 rules, case decisions, or common law. Accordingly, to expedite the flow of
25 information, to facilitate the prompt resolution of disputes over confidentiality of
26 discovery materials, to adequately protect information the parties are entitled to keep
27 confidential, to ensure that the parties are permitted reasonable necessary uses of
28 such material in preparation for and in the conduct of trial, to address their handling

1 at the end of the litigation, and serve the ends of justice, a protective order for such
2 information is justified in this matter. It is the intent of the parties that information
3 will not be designated as confidential for tactical reasons and that nothing be so
4 designated without a good faith belief that it has been maintained in a confidential,
5 non-public manner, and there is good cause why it should not be part of the public
6 record of this case.

7 2. DEFINITIONS

8 2.1 Action: This pending federal lawsuit.

9 2.2 Challenging Party: a Party or Non-Party that challenges the designation
10 of information or items under this Order.

11 2.3 "CONFIDENTIAL" Information or Items: information (regardless of
12 how it is generated, stored or maintained) or tangible things that qualify for
13 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the
14 Good Cause Statement.

15 2.4 Counsel (without qualifier): Outside Counsel of Record and House
16 Counsel (as well as their support staff).

17 2.5 Designating Party: A Party or Non-Party that designates information or
18 items that it produces in disclosures or in responses to discovery as
19 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL."

20 2.6 Disclosure or Discovery Material: all items or information, regardless
21 of the medium or manner in which it is generated, stored, or maintained (including,
22 among other things, testimony, transcripts, and tangible things), that are produced or
23 generated in disclosures or responses to discovery in this matter.

24 2.7 Expert: a person with specialized knowledge or experience in a matter
25 pertinent to the litigation who has been retained by a Party or its counsel to serve as
26 an expert witness or as a consultant in this Action.
27
28

1 2.8 “HIGHLY CONFIDENTIAL” Information or Items. Information that is
2 CONFIDENTIAL and whose disclosure to another Party or Non-Party would create
3 a substantial risk of injury that could not be avoided by less restrictive means.

4 2.9 House Counsel: attorneys who are employees of a party to this Action,
5 and includes their support staff. House Counsel does not include Outside Counsel of
6 Record or any other outside counsel.

7 2.10 Non-Party: any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this Action.

9 2.11 Outside Counsel of Record: attorneys who are not employees of a party
10 to this Action but are retained to represent or advise a party to this Action and have
11 appeared in this Action on behalf of that party or are affiliated with a law firm which
12 has appeared on behalf of that party, and includes support staff.

13 2.12 Party: any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 2.13 Producing Party: A Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 2.14 Professional Vendors: persons or entities that provide litigation support
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)
21 and their employees and subcontractors.

22 2.15 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.”

24 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material
25 from a Producing Party.

26 3. SCOPE

27 The protections conferred by this Order cover not only Protected Material (as
28 defined above), but also (1) any information copied or extracted from Protected

1 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
2 and (3) any testimony, conversations, or presentations by Parties or their Counsel that
3 might reveal Protected Material.

4 Any use of Protected Material at trial shall be governed by the orders of the
5 trial judge. This Order does not govern the use of Protected Material at trial.

6 4. DURATION

7 Even after final disposition of this litigation, the confidentiality obligations
8 imposed by this Order shall remain in effect until a Designating Party agrees
9 otherwise in writing or a court order otherwise directs. ^{consistent with local rule 79-5.1. shs} Final disposition shall be
10 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
11 or without prejudice; and (2) final judgment herein after the completion and
12 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
13 including the time limits for filing any motions or applications for extension of time
14 pursuant to applicable law.

15 5. DESIGNATING PROTECTED MATERIAL

16 5.1 Exercise of Restraint and Care in Designating Material for Protection.

17 Each Party or Non-Party that designates information or items for protection under
18 this Order must take care to limit any such designation to specific material that
19 qualifies under the appropriate standards. The Designating Party must designate for
20 protection only those parts of material, documents, items, or oral or written
21 communications that qualify – so that other portions of the material, documents,
22 items, or communications for which protection is not warranted are not swept
23 unjustifiably within the ambit of this Order.

24 Mass, indiscriminate, or routinized designations are prohibited. Designations
25 that are shown to be clearly unjustified or that have been made for an improper
26 purpose (e.g., to unnecessarily encumber the case development process or to impose
27 unnecessary expenses and burdens on other parties) may expose the Designating
28 Party to sanctions.

1 If it comes to a Designating Party's attention that information or items that it
2 designated for protection do not qualify for protection that Designating Party must
3 promptly notify all other Parties that it is withdrawing the inapplicable designation.

4 5.2 Manner and Timing of Designations. Except as otherwise provided in
5 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
6 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
7 under this Order must be clearly so designated before the material is disclosed or
8 produced.

9 Designation in conformity with this Order requires:

10 (a) for information in documentary form (e.g., paper or electronic
11 documents, but excluding transcripts of depositions or other pretrial or trial
12 proceedings), that the Producing Party affix the legend "CONFIDENTIAL" or
13 "HIGHLY CONFIDENTIAL" to each page that contains protected material. If only a
14 portion or portions of the material on a page qualifies for protection, the Producing
15 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
16 markings in the margins).

17 A Party or Non-Party that makes original documents or materials
18 available for inspection need not designate them for protection until after the
19 inspecting Party has indicated which material it would like copied and produced.
20 During the inspection and before the designation, all of the material made available
21 for inspection shall be deemed "HIGHLY CONFIDENTIAL." After the inspecting
22 Party has identified the documents it wants copied and produced, the Producing Party
23 must determine which documents, or portions thereof, qualify for protection under
24 this Order. Then, before producing the specified documents, the Producing Party
25 must affix the "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" legend to each
26 page that contains Protected Material. If only a portion or portions of the material on
27 a page qualifies for protection, the Producing Party also must clearly identify the
28 protected portion(s) (e.g., by making appropriate markings in the margins).

1 (b) for testimony given in deposition or in other pretrial or trial
2 proceedings, that the Designating Party identify on the record, before the close of the
3 deposition, hearing, or other proceeding, all protected testimony.

4 (c) for information produced in some form other than documentary
5 and for any other tangible items, that the Producing Party affix in a prominent place
6 on the exterior of the container or containers in which the information or item is
7 stored the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." If only a
8 portion or portions of the information or item warrant protection, the Producing
9 Party, to the extent practicable, shall identify the protected portion(s).

10 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
11 failure to designate qualified information or items does not, standing alone, waive the
12 Designating Party's right to secure protection under this Order for such material.
13 Upon timely correction of a designation, the Receiving Party must make reasonable
14 efforts to assure that the material is treated in accordance with the provisions of this
15 Order.

16 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

17 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
18 designation of confidentiality at any time that is consistent with the Court's
19 Scheduling Order.

20 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
21 resolution process under Local Rule 37.1 et seq.

22 6.3 The burden of persuasion in any such challenge proceeding shall be on
23 the Designating Party. Frivolous challenges, and those made for an improper
24 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
25 parties) may expose the Challenging Party to sanctions. Unless the Designating Party
26 has waived or withdrawn the confidentiality designation, all parties shall continue to
27 afford the material in question the level of protection to which it is entitled under the
28 Producing Party's designation until the court rules on the challenge.

1 | 7. ACCESS TO AND USE OF PROTECTED MATERIAL

2 | 7.1 Basic Principles. A Receiving Party may use Protected Material that is
3 | disclosed or produced by another Party or by a Non-Party in connection with this
4 | Action only for prosecuting, defending, or attempting to settle this litigation. Such
5 | Protected Material may be disclosed only to the categories of persons and under the
6 | conditions described in this Order. When the Action has been terminated, a
7 | Receiving Party must comply with the provisions of section 13 below (FINAL
8 | DISPOSITION).

9 | Protected Material must be stored and maintained by a Receiving Party at a
10 | location and in a secure manner that ensures that access is limited to the persons
11 | authorized under this Order.

12 | 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
13 | otherwise ordered by the court or permitted in writing by the Designating Party, a
14 | Receiving Party may disclose any information or item designated
15 | "CONFIDENTIAL" only to:

16 | (a) the Receiving Party's Outside Counsel of Record in this Action,
17 | as well as employees of said Outside Counsel of Record to whom it is reasonably
18 | necessary to disclose the information for this Action and who have signed the
19 | "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A;

20 | (b) the officers, directors, and employees (including House Counsel)
21 | of the Receiving Party to whom disclosure is reasonably necessary for this Action
22 | and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit
23 | A);

24 | (c) Experts (as defined in this Order) of the Receiving Party to whom
25 | disclosure is reasonably necessary for this Action and who have signed the
26 | "Acknowledgment and Agreement to Be Bound" (Exhibit A);

27 | (d) the court and its personnel;
28 |

(e) court reporters and their staff, professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses in the Action to whom disclosure is reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

7.3 Disclosure of "HIGHLY CONFIDENTIAL" Information or Items.

Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL" only to the following categories of individuals. Notwithstanding anything to the contrary herein, a Party shall not be permitted to disclose any information or item designated "HIGHLY CONFIDENTIAL" to any of its or her officers, directors, employees, consultants, retained experts, except as detailed below.

(a) the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably

1 necessary to disclose the information for this Action and who have signed the
2 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A;

3 (b) House Counsel of the Receiving Party to whom disclosure is
4 reasonably necessary for this Action and who have signed the "Acknowledgment and
5 Agreement to Be Bound" (Exhibit A);

6 (c) Experts (as defined in this Order) of the Receiving Party to whom
7 disclosure is reasonably necessary for this Action and who have signed the
8 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

9 (d) the court and its personnel;

10 (e) court reporters and their staff, professional jury or trial
11 consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably
12 necessary for this Action and who have signed the "Acknowledgment and Agreement
13 to Be Bound" (Exhibit A);

14 (f) Professional Vendors to whom disclosure is reasonably necessary
15 for this Action and who have signed the "Acknowledgment and Agreement to Be
16 Bound" (Exhibit A);

17 (g) the author or recipient of a document containing the information
18 or a custodian or other person who otherwise possessed or knew the information;

19 (h) during their depositions, witnesses in the Action to whom
20 disclosure is reasonably necessary and who have signed the "Acknowledgment and
21 Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating
22 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to
23 depositions that reveal Protected Material must be separately bound by the court
24 reporter and may not be disclosed to anyone except as permitted under this Protective
25 Order; and

26 (i) any mediator or settlement officer, and their supporting personnel,
27 mutually agreed upon by any of the parties engaged in settlement discussions.
28

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
2 OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such
7 notification shall include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or
9 order to issue in the other litigation that some or all of the material covered by the
10 subpoena or order is subject to this Protective Order. Such notification shall include a
11 copy of this Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be
13 pursued by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with
15 the subpoena or court order shall not produce any information designated in this
16 Action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” before a
17 determination by the court from which the subpoena or order issued, unless the Party
18 has obtained the Designating Party’s permission. The Designating Party shall bear
19 the burden and expense of seeking protection in that court of its confidential material
20 – and nothing in these provisions should be construed as authorizing or encouraging
21 a Receiving Party in this Action to disobey a lawful directive from another court.

22 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
23 PRODUCED IN THIS LITIGATION

24 (a) The terms of this Order are applicable to information produced by
25 a Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
26 CONFIDENTIAL.” Such information produced by Non-Parties in connection with
27 this litigation is protected by the remedies and relief provided by this Order. Nothing
28

1 in these provisions should be construed as prohibiting a Non-Party from seeking
2 additional protections.

3 (b) In the event that a Party is required, by a valid discovery request,
4 to produce a Non-Party's confidential information in its possession, and the Party is
5 subject to an agreement with the Non-Party not to produce the Non-Party's
6 confidential information, then the Party shall:

7 (1) promptly notify in writing the Requesting Party and the
8 Non-Party that some or all of the information requested is subject to a confidentiality
9 agreement with a Non-Party;

10 (2) promptly provide the Non-Party with a copy of the
11 Protective Order in this Action, the relevant discovery request(s), and a reasonably
12 specific description of the information requested; and

13 (3) make the information requested available for inspection by
14 the Non-Party.

15 (c) If the Non-Party fails to object or seek a protective order from this
16 court within 14 days of receiving the notice and accompanying information, the
17 Receiving Party may produce the Non-Party's confidential information responsive to
18 the discovery request. If the Non-Party timely seeks a protective order, the Receiving
19 Party shall not produce any information in its possession or control that is subject to
20 the confidentiality agreement with the Non-Party before a determination by the court.
21 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
22 of seeking protection in this court of its Protected Material.

23 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
25 Protected Material to any person or in any circumstance not authorized under this
26 Protective Order, the Receiving Party must immediately (a) notify in writing the
27 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
28 all unauthorized copies of the Protected Material, (c) inform the person or persons to

1 whom unauthorized disclosures were made of all the terms of this Order, and (d)
2 request such person or persons to execute the "Acknowledgment and Agreement to
3 Be Bound" that is attached hereto as Exhibit A.

4 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
5 PROTECTED MATERIAL

6 When a Producing Party gives notice to Receiving Parties that certain
7 inadvertently produced material is subject to a claim of privilege or other protection,
8 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
9 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
10 may be established in an e-discovery order that provides for production without prior
11 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
12 parties reach an agreement on the effect of disclosure of a communication or
13 information covered by the attorney-client privilege or work product protection, the
14 parties may incorporate their agreement in the stipulated protective order submitted
15 to the court.

16 12. MISCELLANEOUS

17 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
18 person to seek its modification by the court in the future.

19 12.2 Right to Assert Other Objections. No Party waives any right it
20 otherwise would have to object to disclosing or producing any information or item on
21 any ground not addressed in this Protective Order. Similarly, no Party waives any
22 right to object on any ground to use in evidence of any of the material covered by this
23 Protective Order.

24 12.3 Filing Protected Material. Without written permission from the
25 Designating Party or a court order secured after appropriate notice to all interested
26 persons, a Party may not file in the public record in this Action any Protected
27 Material. A Party that seeks to file under seal any Protected Material must comply
28 with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant

1 to a court order authorizing the sealing of the specific Protected Material at issue. If a
2 Party's request to file Protected Material under seal is denied by the court, then the
3 Receiving Party may file the information in the public record unless otherwise
4 instructed by the court.

5 13. FINAL DISPOSITION

6 Within 60 days after the final disposition of this Action, as defined in
7 paragraph 4, each Receiving Party must return all Protected Material to the
8 Producing Party or destroy such material. As used in this subdivision, "all Protected
9 Material" includes all copies, abstracts, compilations, summaries, and any other
10 format reproducing or capturing any of the Protected Material. Whether the Protected
11 Material is returned or destroyed, the Receiving Party must submit a written
12 certification to the Producing Party (and, if not the same person or entity, to the
13 Designating Party) by the 60 day deadline that (1) identifies (by category, where
14 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
15 that the Receiving Party has not retained any copies, abstracts, compilations,
16 summaries or any other format reproducing or capturing any of the Protected
17 Material. Notwithstanding this provision, Counsel are entitled to retain an archival
18 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
19 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
20 work product, and consultant and expert work product, even if such materials contain
21 Protected Material. Any such archival copies that contain or constitute Protected
22 Material remain subject to this Protective Order as set forth in Section 4
23 (DURATION).

24 ///

14. Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: 3/2/16


Hon. Suzanne H. Segal
United States Magistrate Judge

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Protective Order that was issued by
the United States District Court for the Central District of California on [date] in the
case of *Silpada Designs, Inc. v. Claire Santaniello*, Case No. 15-CV-03636-SJO
(SSx). I agree to comply with and to be bound by all the terms of this Protective
Order and I understand and acknowledge that failure to so comply could expose me
to sanctions and punishment in the nature of contempt. I solemnly promise that I will
not disclose in any manner any information or item that is subject to this Protective
Order to any person or entity except in strict compliance with the provisions of this
Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Central District of California for the purpose of enforcing the terms of this Protective
Order, even if such enforcement proceedings occur after termination of this Action. I
hereby appoint _____ [print or type full name] of
_____ [print or type full address and
telephone number] as my California agent for service of process in connection with
this Action or any proceedings related to enforcement of this Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____